

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

App. No.:	10/803,434	Confirmation No.:	5439
Applicant(s):	Robert W. Rodenbeck, et al.	T.C./Art Unit:	2612
Filed:	March 18, 2004	Examiner:	Vernal U. Brown
Title:	WIRELESS SECURITY CONTROL SYSTEM	Docket No.:	STS-P024-01
		Customer No.:	27268

PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW NOTICE OF ABANDONMENT

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants' representatives received a Notice of Abandonment in U.S. Patent Application Serial Number 10/803,434 ("application"), mailed March 28, 2011. This petition is presented to request the withdraw of the Notice of Abandonment, as it was improperly issued. A recitation of the facts is presented below, with reference to specific documents in the file history, which are attached as exhibits.

Applicants received a Final Office Action dated August 9, 2005, which rejected all pending claims. In response, Applicants filed a Notice of Appeal on February 14, 2006, and an Appeal Brief on May 18, 2006, addressing each of the rejected claims.

On August 9, 2006, the Examiner submitted an Examiner's Answer in response to the Appeal Brief, in which the Examiner indicated, for the first time, that claims 18-26 were allowed. *See* Examiner's Answer, Exhibit A, page 2. Claims 18-26 were not listed in the detailed "Grounds of Rejection" section. *See* Exhibit A, pages 3-12. The Examiner's Answer was signed by the Examiner, a Primary Examiner, and two Supervisory Patent Examiners. *See* Exhibit A, page 15.

On October 13, 2006, Applicants filed a Reply Brief to the Examiner's Answer, noting the allowance of claims 18-26, and awaited the Board's decision.

On July 18, 2007, the Board of Patent Appeals and Interferences issued a decision on the

Appeal, attached as Exhibit B. In the decision, the Board clearly indicated:

[a]s indicated on page 2 of the Examiner's Answer, claims 18-26 have been allowed. Accordingly, only the rejection of claims 1-7, 10-16, and 27-29 is before us on appeal.

Exhibit B, pages 1-2. The Board also specifically noted the allowance of claims 18-26, and indicated if "the Examiner remains of the position that claims 18-26 should be allowed, a 'Reasons for Allowance' should be included to ensure completeness of the record." Exhibit B, page 10¹.

On September 17, 2007, Applicants, through counsel, appealed the decision of the Board to the United States Court of Appeals for the Federal Circuit. Applicants later filed a voluntary dismissal of the September 17, 2007 appeal, which was granted on January 15, 2008. Exhibit C.

Applicants received a Notice of Abandonment dated March 28, 2011, indicating abandonment in view of the "decision by the Board of Patent Appeals and Interferences rendered on 15 January 2008 and because the period for seeking court review of the decision has expired and there are no allowed claims." Notice of Abandonment, Exhibit D. Applicants believe that the indication in the Notice of Abandonment that "there are no allowed claims" is an error, given the earlier Examiner's Answer indicating allowed claims 18-26.

According to 37 C.F.R. § 1.197:

(b) *Termination of proceedings.*

(1) Proceedings on an application are considered terminated by the dismissal of an appeal or the failure to timely file an appeal to the court or a civil action (§ 1.304) except:

- (i) Where claims stand allowed in an application; or
- (ii) Where the nature of the decision requires further action by the examiner.

(2) The date of termination of proceedings on an application is the date on which the appeal is dismissed or the date on which the time for appeal to the U.S. Court of Appeals for the Federal Circuit or review by civil action (§ 1.304) expires in the absence of further appeal or review. If an appeal to the U.S. Court of Appeals for the Federal Circuit or a civil action has been filed, proceedings on an application are considered terminated when the appeal or civil action is terminated. A civil action is terminated when the time to

¹ It should be noted that the conclusion section of the Board's decision indicates "we have sustained the Examiner's 35 U.S.C. § 103(a) rejections of all claims on appeal. Therefore, the decision of the Examiner rejecting claims 1-7, 10-16, and 18-29 is affirmed." This appears to be a typographical error, as the Board earlier stated that "only the rejection of claims 1-7, 10-16, and 27-29 is before us on appeal." Exhibit B, page 2.

appeal the judgment expires. An appeal to the U.S. Court of Appeals for the Federal Circuit, whether from a decision of the Board or a judgment in a civil action, is terminated when the mandate is issued by the Court.

According to 37 C.F.R. § 1.197, an appeal to the Court of Appeals for the Federal Circuit is terminated when the mandate is issued by the Court. The mandate in Exhibit C was issued on January 15, 2008. However, § 1.197 also indicates that proceedings on an application are considered terminated *except* where claims stand allowed, or the nature of the decision requires further action by the Examiner. In this application, both sections are applicable. The Examiner clearly allowed claims 18-26 in the Examiner's Answer, and the Board, in its decision, indicated that "a 'Reasons for Allowance' should be included to ensure completeness of the record." Exhibit B, page 10.

Applicants' representatives spoke with the Examiner of record on April 28, 2011. The Examiner acknowledged the error, and indicated that the Notice of Abandonment should be withdrawn. Applicants file this petition out of an abundance of caution and with the understanding that, under 37 C.F.R. § 1.181(f), a Rule 181 petition may be dismissed as untimely if not filed within two months of the mailing date of the action from which relief is requested.

Closing Remarks

Applicants respectfully submit that the Notice of Abandonment was improper and should be withdrawn.

According to MPEP § 711.03(c), "[w]here an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee." Applicants respectfully submit that no fee is necessary for this petition. However, if a fee is determined to be required for this petition, please charge any required fees needed beyond those submitted to the account of Baker & Daniels LLP, Deposit Account No. 02-0390, and please credit any overpayments to the same account.

In the event that there are any questions related to this petition or to the application in general, the undersigned would appreciate the opportunity to address those questions directly in a telephone interview.

Respectfully submitted,
BAKER & DANIELS LLP

By: /Jonathan B. Burns/
Jonathan B. Burns
Registration No. 51,515
BAKER & DANIELS LLP
300 N. Meridian Street, Suite 2700
Indianapolis, Indiana 46204
Telephone: (317) 237-0300
Fax: (317) 237-1000

Date: May 27, 2011

JBB

Exhibit A

Examiner's Answer to Appeal Brief, Filed August 9, 2006



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,434	03/18/2004	Robert Wilmer Rodenbeck	3054-74724	5439

27268 7590 08/09/2006

BAKER & DANIELS LLP
300 NORTH MERIDIAN STREET
SUITE 2700
INDIANAPOLIS, IN 46204

EXAMINER

BROWN, VERNAL U

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/803,434
Filing Date: March 18, 2004
Appellant(s): RODENBECK ET AL.

Ryan C. Barker

For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 5/18/2006 appealing from the Office action
mailed 8/09/2006.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

Claims 18-26 are allowed.

Claims 1-16 and 27-29 are rejected.

(4) Status of Amendments After Final

The amendment after final rejection filed on 5/18/2006 has been entered.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows:

The failure to include the reference of Pinzon (US Patent 6161005) in the rejection of claims 7 and 13-16 was an oversight. The reference of Pinzon was used in the rejection of claim 1, and base on the fact that claims 7 and 13-16 are dependent on claim 1, the reference of Pinzon must be included in the rejection of claims 7 and 13-16.

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(8) Evidence Relied Upon

5321963	Goldman	6-1994
6161005	Pinzon	12-2000
6072402	Kniffin et al.	6-2000
5298883	Pilney et al.	3-1994
6359547	Denison et al.	3-2002
6177861	MacLellan et al.	6177861

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kniffin et al. US Patent 6072402 in view of Pinzon US Patent 6161005.

Regarding claim 1, Kniffin et al. teaches a wireless security control system (figure 1) for use in a facility having a plurality of doors (col. 5 lines 40-44), the wireless security control system comprising a central access control system (18) in which access information is stored (col. 2 lines 44-45), and a plurality of remote access control systems each being adapted to be mounted to a respective one of the doors of the facility to control the locking and unlocking of the respective door (col. 2 lines 25-31), the central access control system wirelessly transmitting access information to the plurality of remote access control systems prior to any users associated with the access information making any attempts to unlock any of the doors (col. 5 lines 42-47), each of the remote access control systems being configured to receive wirelessly and store at least some of the access information from the central access control system (col. 5 lines 53-55), each of the remote access control systems being configured to control the locking and unlocking of the respective door using the access information stored therein, each of the plurality of remote access control systems making a decision whether to unlock the respective door in response to a user making an attempt to unlock the door based on the access information stored therein and without having to further communicate with the central access control system (col. 5 lines 53-57). Kniffin et al. is however silent on teaching access information is transmitted to the access control system independent of any user making a request to unlock the door. Pinzon in an art related door unlocking system teaches pre-programming the access code into a locking unit (col. 6 lines 32-41) in order to change and update the access codes.

It would have been obvious to one of ordinary skill in the art for access information is transmitted to the access control system independent of independent of any user making a request to unlock the door in Kniffin et al. as evidenced by Pinzon because Kniffin et al. suggest programming the locking mechanism with the access code when access is requested and Pinzon teaches pre-programming the access code into a locking unit in order to change and update the access codes.

Regarding claim 2, Kniffin et al. teaches the remote access control systems includes an antenna, an access controller, and a receiver that is electrically coupled to the antenna and that communicates the wireless information received by the antenna to the access controller (figure 1).

Regarding claim 4, Kniffin et al. teaches the remote access control systems is further adapted to transmit wireless information to the central access control system (col. 4 lines 54-56) .

Regarding claim 10, Kniffin teaches a remote access control system (figure 1) adapted to be mounted to a door to control the locking and unlocking of the door and adapted to receive wireless information from a central access control system located remotely from the access control system (col. 2 lines 31-40), the remote access control system comprising:
a reader (proximity detector) adapted to read user data presented to reader (col. 3 lines 56-58);
a remote wireless communicator adapted to receive wireless information from the central access control system, the wireless information being transmitted to the remote wireless communicator where it is stored prior to a user making an attempt to unlock the door (col. 2 lines 44-53);

a remote access controller electrically coupled to the remote wireless communicator and configured to receive the information from the remote wireless communicator, the remote access controller being configured to control the locking and unlocking of the door using the stored wireless information, the remote access controller making a decision from the previously stored wireless information and without requiring additional information from the central access control system about whether to unlock the door in response to the user making the attempt to unlock the door (col. 4 line 52-col. 5 line 2). Kniffin et al. further teaches providing user-updated information to the remote access controller (col. 5 lines 52-55).

Regarding claim 11, Kniffin et al. teaches the remote access control systems further comprises a battery coupled to the respective reader, the respective remote access controller, and the respective remote wireless communicator (col. 4 lines 53-55, figure 1).

Regarding claim 12, Kniffin et al. teaches the user data is stored on tokens (col. 3 lines 50-58), each of the remote access control systems is adapted to store user history information regarding which tokens were granted access (col. 4 lines 52-53), and each of the remote access control systems is configured to transmit the user history information to the central access control system (col. 4 lines 54-56).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kniffin et al. U.S. Patent 6072402 in view of Pinzon US Patent 6161005 and further in view of Goldman U.S. Patent 5321963.

Regarding claim 3, Kniffin et al. teaches mounting a portion of the remote access control system on both side of the door (col. 5 lines 48-50) but is silent on teaching the remote access

control system includes a housing having an inner portion mounted on the inside of the door and an outer portion mounted on the outside of the door. One skilled in the art recognizes that it is conventional practice to have an access control system in which an inner portion of the system is mounted on the inside and an outer portion mounted on the outside in order to allow the access control mechanism to be operated from both side of the door as further evidenced by Goldman (col. 1 lines 59-63). One skilled in the art further recognizes that an antenna is sometimes mounted on the outer portion of a housing as evidenced by communication units such as mobile and cellular phones and other communication devices.

It would have been obvious to one of ordinary skill in the art for the remote access control system to include a housing having an inner portion mounted on the inside of the door and an outer portion mounted on the outside of the door in Kniffin et al. in view of Pinzon as evidenced by Goldman because Kniffin et al. in view of Pinzon suggests a remote access control system controlling a door and one skilled in the art recognizes that it is conventional practice to have an access control system in which an inner portion of the system is mounted on the inside and an outer portion mounted on the outside in order to allow the access control mechanism to be operated from both side of the door as further evidenced by Goldman. One skilled in the art further recognizes that an antenna is sometimes mounted on the outer portion of a housing as evidenced by communication units such as mobile and cellular phones.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kniffin et al. U.S Patent 6072402 in view of Pinzon US Patent 6161005 and further in view of Pilney et al. U.S Patent 5298883.

Regarding claim 5, Kniffin et al. teaches a remote access control system having a transmitter (42) and receiver (14) but is however silent on teaching the remote wireless communicator includes a switch for selectively choosing between receiving and transmitting the wireless information. Pilney et al. in an art related invention in the same field of endeavor of wireless system teaches a wireless communicator with a switch for selectively choosing between receiving and transmitting the wireless information (col. 2 lines 20-25).

It would have been obvious to one of ordinary skill in the art to modify the access control system of Kniffin as disclosed by Pilney et al. at the time the invention was made because using a switch to select between receiving and transmitting provides a cheaper alternative to having of having a single antenna instead of two antennas for transmitting and receiving respectively.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kniffin et al. U.S. Patent 6072402 in view of Pinzon US Patent 6161005 and further in view of Denison et al. U.S. Patent 6359547.

Regarding claim 6, Kniffin et al. in view of Pinzon teaches providing updated information wirelessly to the remote access control system (col. 5 lines 52-55) but is silent on teaching the remote access control system includes a local communication port electrically coupled to the remote access controllers and adapted to provide wired communication from a portal device. Denison et al. in an art related Electronic Access Control Device invention teaches a remote access control system that includes a local communication port (col. 3 lines 36-39) as an alternative to the wireless communication means used by Kniffin et al..

It would have been obvious to one of ordinary skill in the art for the remote access control system to include a local communication port adapted to provide wired communication from a portal device in Kniffin et al. in view of Pinzon as evidenced by Denison et al. because the local communication port provides a means of providing updates to the access control system using a portable device such as a computer.

Claims 7 and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kniffin et al. U.S. Patent 6072402 in view of Pinzon US Patent 6161005 and further in view of MacLellan et al. U.S. Patent 6177861.

Regarding claims 7 and 13, Kniffin et al. teaches providing user-updated information to the remote access controller (col. 5 lines 52-55) and the transfer of data is initiated by the user (col. 2 lines 31-34, col. 2 lines 44-46) but is silent on teaching the remote access control system periodically initiates wireless communication with the central access control system. MacLellan et al. in an art related communication system teaches remote unit transmitting status updates to the central controller (col. 3 lines 45-67). The transmission of the remote unit further initiate a transmission from the central control unit in the form of an acknowledgement (col. 5 lines 44-48) in order to ensure that data is transmitted when the remote unit is ready to accept data.

It would have been obvious to one of ordinary skill in the art to modify the access control system of Kniffin in view of Pinzon as disclosed by MacLellan et al. at the time the invention was made because the use of the remote unit to initiate communication with a central control unit ensures that data is transmitted to the remote unit when the remote unit is ready to accept data.

Regarding claim 14, Kniffin et al. teaches a central access controller (20) and a central wireless communicator (26) connected to the central access controller (figure 1). Kniffin et al. further teaches a RF transmission system that include a paging system or a cellular system for transmitting control signal to the remote access unit (col. 2 lines 47-50) but is silent not explicit in teaching a plurality of central wireless communicators connected to the central controller. MacLellan et al. in an art related security system teaches a plurality of central wireless communicators (103) connected to the central controller (figure 1) in order to limit the number of remote unit communicating with each central wireless communicators for avoiding interference.

It would have been obvious to one of ordinary skill in the art to have a plurality of central wireless communicators connected to the central controller in Kniffin et al. as evidenced by MacLellan et al. because a plurality of central wireless communicators connected to the central controller limits the number of remote unit communicating with each central wireless communicators for avoiding interference.

Regarding claim 15, Kniffin et al. teaches the central wireless communicator (26) communicating wirelessly with a remote access system (12) as shown in figure 1.

Regarding claim 16, Kniffin et al. teaches the central wireless communicator communicates with more than one remote access control system (col. 7 lines 20-25). Regarding claims 19-20, Kniffin et al. teaches a security system in which the central controller (20) is connected to the central access communicator (26) by a wired connection (figure 1) but is

silent on teaching the central access controller is electrically coupled to the plurality of central access communicators by the bus. MacLellan et al. in an art related security system teaches central access controller is electrically coupled to the plurality of central access communicators by the bus (figure 1) and the bus is further controlled by network protocol (col. 2 lines 54-64) in order to provide a standard communication interface.

It would have been obvious to one of ordinary skill in the art for the central access controller is electrically coupled to the plurality of central access communicators by the bus in Kniffin et al. as evidenced by MacLellan et al. because this provides a standard communication interface and simplifies communication with the central controller.

Claim 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kniffin et al. U.S Patent 6072402 in view of Pinzon US Patent 6161005 and further in view of Pilney et al. US Patent 5298883.

Regarding claim 27, Kniffin et al. teaches the remote access control system receives access information from the central access communicator (clearing house) (col. 5 lines 42-47) but is silent on teaching the wireless communication is normally powered down. Pilney et al. in an art related communication system teaches a wireless communicator that is powered down when not in use (col. 3 lines 7-15) in order to conserve on the power supply.

It would have been obvious to one of ordinary skill to modify the access control system of Kniffin in view of Pinzon as disclosed by Pilney because powering down the wireless communicators when they are not in use conserves on the power supply.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kniffin et al. U.S Patent 6072402 in view of Pilney et al. US Patent 5298883.

Regarding claim 29, Kniffin et al. teaches a security control system configured to control the locking and unlocking of doors in a facility (col. 2 lines 25-30) the wireless security control system comprising a central access control system (18) in which access information is stored (col. 2 lines 44-45), and a plurality of remote access control systems (plurality of access control system is implied by the user identifying the access system the user desires to access, col. 2 lines 37-38) each being adapted to be mounted to a respective one of the doors of the facility to control the locking and unlocking of the respective door (col. 2 lines 25-31), the central access control system wirelessly transmitting access information to the plurality of remote access control systems (col. 5 lines 42-47). Kniffin et al. is however silent on teaching the wireless communication is normally powered down. Pilney et al. in an art related communication system teaches a wireless communicator that is powered down when not in use (col. 3 lines 7-15) in order to conserve on the power supply.

It would have been obvious to one of ordinary skill in the art for the wireless communication device to be normally powered down in Kniffin et al. as evidenced by Pilney because Kniffin et al. suggests the remote access control system receives access information from the central access communicator and Pilney teaches a wireless communicator that is powered down when not in use in order to conserve on the power supply.

(10) Response to Argument

Appellant argues on pages 4-6 that Kniffin fails to teach or suggest the central access control system wirelessly transmitting access information to the plurality of remote access

control systems independent of any users associated with the access information making any request for rights to unlock any of the doors and that Kniffin teaches away from any references where access information is transmitted to the access control system independent of any user making a request to unlock the door. It is the examiners opinion that while Kniffin teaches the user establishing communication with the clearinghouse in order to gain access to the lock (col. 2 lines 32-53), Kniffin also teaches wirelessly pre-programming the identities of the person allow to pass through a door (col. 5 lines 40-50). Kniffin teaches the pre-programming is done on a periodically basis (e.g daily) so that an authorized user can gain access upon presentation of his/her identification without prior contacting the clearinghouse (col. 5 lines 53-57). Kniffin teaches the motivation for pre-programming the lock with the access codes is to allows a plurality of keys to access the lock instead of authorizing a single key whose authorization is dependent on the user contacting the clearinghouse (col. 5 lines 53-63). The reference of Pinzon is further relied on for teaching the preprogramming of the access codes into the lock (col. 6 lines 32-41) and by preprogramming the access code in the lock, the access codes are transmitted to the lock independent of the user making a request to unlock the door.

Although the grounds of rejection states that the Kniffin is silent on teaching the central access control system wirelessly transmitting access information to the plurality of remote access control systems independent of any users associated with the access information making any request, it is the examiner's opinion that upon further analysis of the invention of Kniffin, Kniffin teaches wirelessly transmitting access information to the plurality of remote access control systems independent of any users associated with the access information making any

request by periodically programming the lock in order to allow a plurality of keys to operate the lock (col. 5 lines 53-57).

Regarding appellant's argument regarding claim 3 on pages 8-9, Kniffin teaches an antenna associated with the remote access control system (col. 4 lines 55-60) and shown in figure 1. The receiving and transmitting antenna is clearly mounted to the exterior of the housing of the lock (12) as shown in figure 1. It is further the examiner's opinion that in general an antenna is mounted on the outer portion of the housing of a wireless communication device. The reference of Goldman is relied upon for teaching the mounting of a inner portion of the access system on the inside of the door and the mounting of outer portion of the access system on the outer portion of the door (figure 1b).

Regarding appellant's argument regarding claim 6 on page 9, the reference of Kniffin teaches wirelessly providing updates to the access control system (col. 5 lines 52-55). Kniffin further teaches a wired communication means as a suitable alternative to wireless and optical communication means (col. 6 lines 15-23). The reference of Denison et al. is further relied upon for teaching providing updates using a wired port (col. 3 lines 36-39) which is considered an alternative to the wireless port of Kniffin.

Regarding appellant's argument on page 10 regarding claim 7 and 13, the reference of kniffin is relied upon for teaching wirelessly transmitting access information to the plurality of remote access control system as described above in examiner's response to appellant argument regarding claim 1. The reference of MacLellan is relied upon for teaching a wireless system (col. 2 lines 61-64) transmitting status updates to the central controller (col. 3 lines 45-67). The

Art Unit: 2612

transmission of the remote unit further initiate a transmission from the central control unit in the form of an acknowledgement (col. 5 lines 44-48).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

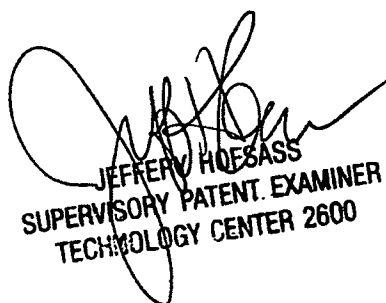
Vernal Brown


August 2, 2006

Conferees:

Brian Zimmerman

Michael Horabik


JEFFREY HOESASS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600


BRIAN ZIMMERMAN
PRIMARY EXAMINER
Conferee


MICHAEL HORABIK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Exhibit B

Decision by the Board of Patent Appeals and Interferences Dated July 18, 2007

The opinion in support of the decision being entered today
is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT WILMER RODENBECK, ROGER KEITH RUSSELL,
and MICHAEL LEE LONG

Appeal 2007-0981
Application 10/803,434
Technology Center 2600

Decided: July 18, 2007

Before LEE E. BARRETT, JOSEPH F. RUGGIERO, and ALLEN R.
MACDONALD, *Administrative Patent Judges*.

RUGGIERO, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from the Final Rejection of
claims 1-7, 10-16, and 18-29. As indicated at page 2 of the Examiner's
Answer, claims 18-26 have been allowed. Accordingly, only the rejection of

claims 1-7, 10-16, and 27-29 is before us on appeal. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Appellants' claimed invention relates to a security control system in which a remote access control system, which includes a remote access controller electrically coupled to a remote wireless communicator, receives wireless information from a central access control system. Upon receipt of information from the remote wireless communicator, the remote access controller uses the information to control locking and unlocking of a door. (Specification 1-2).

Claim 1 is illustrative of the invention and reads as follows:

1. A wireless security control system for use in a facility having a plurality of doors, the wireless security control system comprising
a central access control system in which access information is stored,
and
a plurality of remote access control systems each being adapted to be mounted to a respective one of the doors of the facility to control the locking and unlocking of the respective door, the central access control system wirelessly transmitting access information to the plurality of remote access control systems independent of any users associated with the access information making any requests for rights to unlock any of the doors, each of the remote access control systems being configured to receive wirelessly and store at least some of the access information from the central access control system, each of the remote access control systems being configured to control the locking and unlocking of the respective door using the access information stored therein, each of the plurality of remote access control

systems making a decision whether to unlock the respective door in response to a user making an attempt to unlock the door based on the access information stored therein and without having to further communicate with the central access control system.

The Examiner relies on the following prior art references to show unpatentability:

Pilney	US 5,298,883	Mar. 29, 1994
Goldman	US 5,321,963	Jun. 21, 1994
Kniffin	US 6,072,402	Jun. 6, 2000 (filed Jan. 9, 1992)
Pinzon	US 6,161,005	Dec. 12, 2000 (filed Aug. 10, 1998)
MacLellan	US 6,177,861 B1	Jan. 23, 2001 (filed Jul. 17, 1998)
Denison	US 6,359,547 B1	Mar. 19, 2002 (filed Dec. 4, 1996)

Claims 1-7, 10-16, and 27-29, all of the appealed claims, stand rejected under 35 U.S.C. § 103(a). As evidence of obviousness, the Examiner offers Kniffin in view of Pinzon with respect to claims 1, 2, 4, and 10-12, adds Goldman to the basic combination with respect to claim 3, adds Pilney to the basic combination with respect to claim 5, 27, and 28, adds Denison to the basic combination with respect to claim 6, and adds MacLellan to the basic combination with respect to claims 7 and 13-16. Claim 29 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Kniffin and Pilney.

Rather than reiterate the arguments of Appellants and the Examiner, reference is made to the Briefs and Answer for the respective details

ISSUES

- (1) Under 35 U.S.C § 103(a), with respect to appealed claims 1, 2, 4, 10-12, would one of ordinary skill in the art at the time of the invention have been motivated and found it obvious to combine Kniffin with Pinzon to render the claimed invention unpatentable.
- (2) Under 35 U.S.C § 103(a), with respect to appealed claims 3, 5-7, 13-16, 27, and 28, would the ordinarily skilled artisan have been motivated and found it obvious to modify the combination of Kniffin and Pinzon by adding various tertiary references to render the claimed invention unpatentable.
- (3) Under 35 U.S.C § 103(a), with respect to appealed claim 29, would the ordinarily skilled artisan have been motivated and found it obvious to combine Kniffin with Pilney to render the claimed invention unpatentable.

PRINCIPLES OF LAW

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the Examiner must make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966). “[T]he examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a *prima facie* case of unpatentability.” *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). Furthermore, “there must be some

articulated reasoning with some rational underpinning to support the legal conclusion of obviousness' . . . [H]owever, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.”

KSR Int'l Co. v. Teleflex Inc., 127 S. Ct. 1727, 1741, 82 USPQ2d 1385, 1396 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)).

ANALYSIS

With respect to the Examiner's 35 U.S.C. § 103(a) rejection of independent claim 1 based on the combination of Kniffin and Pinzon, after reviewing the Examiner's analysis (Answer 4-5), it is our opinion that the stated position is sufficiently reasonable that we find that the Examiner has at least satisfied the burden of presenting a prima facie case of obviousness. The burden is, therefore, upon Appellants to come forward with evidence and/or arguments which persuasively rebut the Examiner's prima facie case. Only those arguments actually made by Appellants have been considered in this decision. Arguments which Appellants could have made but chose not to make in the Briefs have not been considered and are deemed waived [see 37 CFR § 41.37(c)(1)(vii)].

Appellants' arguments in response to the stated rejection, as well as to the Examiner's comments at pages 13 and 14 in the “**Response to Argument**” portion of the Answer, focus on the alleged deficiency of Kniffin in disclosing the transmission of access information to the access control systems independent of any users' requests to unlock doors as

claimed. According to Appellants (Br. 5-6; Reply Br. 1-2), the user in Kniffin, in contrast to the claimed invention, must contact a clearinghouse with a request for access to a locked door with the clearinghouse then transmitting the access information to the remote access control system.

We do not disagree with Appellants that various embodiments of the remote control locking system of Kniffin operate exactly as Appellants have stated. From our own independent review of Kniffin, however, it is also apparent to us that, as alluded to by the Examiner (Answer 13-14), other embodiments disclosed by Kniffin operate with preprogrammed access information in the lock and do not require any user access request communication with a clearinghouse. For example, the embodiment described at column 5, lines 40-59 of Kniffin involves the preprogramming of access information transmitted from a central access control system to a remote access control system at a door on a periodic basis, i.e., without any request by a user for access to the door. Again, Kniffin, at column 5, lines 53-55 states “[t]he door’s memory can be reprogrammed with updated authorization data daily, or at such interval as may be appropriate.”

For their part, Appellants contend (Reply Br. 2) that Kniffin’s use of the word “foregoing” (col. 5, l. 40) in describing the preprogrammed authorization embodiment must be interpreted to mean that the previously described user access request requirement must also be part of the preprogrammed embodiment. We find no basis for interpreting the disclosure of Kniffin in the manner suggested by Appellants. We fail to see the point of preprogramming access information into a lock access control if a user would still be required to request access authorization from a clearinghouse as contended by Appellants. In our view, the ordinarily

skilled artisan would have recognized and appreciated that any requirement for user access request from a central clearinghouse would defeat the purpose of preprogramming access authorization into the remote access lock control.

We make further reference to an additional embodiment of Kniffin which buttresses the view that different embodiments and variations thereof disclosed by Kniffin describe situations in which access information is programmed into the lock control and a user need not contact a central clearinghouse for access. In a variation of the cellular telephone embodiment described beginning at column 7, line 17 of Kniffin, a user utilizes a cellular telephone to transmit RF signals to a lock control system, which checks to see if the user is on a programmed list of authorized users, to gain access to a locked door without transmitting to a clearinghouse. (Kniffin, col. 7, ll. 36-37 and 44-49).

In view of the above discussion and analysis of the disclosure of Kniffin, we find that, although the Examiner's stated rejection included a reliance on Pinzon to provide a teaching of preprogramming access control information into a lock system independent of a user request for access, this teaching is cumulative to what is already disclosed by Kniffin. Accordingly, it is our opinion that, although we found no error in the Examiner's proposed combination of Kniffin and Pinzon as discussed *supra*, the Pinzon reference is not necessary for a proper rejection of independent claim 1 since all of the claimed elements are in fact present in the disclosure of Kniffin.

For the above reasons, since it is our opinion that the Examiner has established a prima facie case of obviousness which has not been overcome by any convincing arguments from Appellants, the Examiner's 35 U.S.C.

§ 103(a) rejection of independent claim 1, as well as dependent claims 2, 4, and 10-12 not separately argued by Appellants, is sustained.

We also sustain the Examiner's obviousness rejection of dependent claim 3 in which Goldman is added to the combination of Kniffin and Pinzon. Initially, we find Appellants' arguments (Br. 8-9; Reply Br. 2-3) related to the alleged deficiency in the applied prior art in providing a teaching of an exterior mounted antenna to be unpersuasive since, as alluded to by the Examiner (Answer 14), Kniffin in fact illustrates the receiving and transmitting antennas being mounted exteriorly of the lock housing 12. We also find no error in the Examiner's establishment of proper motivation for adding to the proposed combination the teachings of the Goldman reference, which illustrates in Figure 3 the control element 116 mounted on the inside of the door 112. In our view, the ordinarily skilled artisan would have recognized and appreciated the obvious security and environmental protection advantages of placing the wireless communication and remote access control circuitry on the inside of the door housing. As the Supreme Court stated in *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. at 1742-43, 82 USPQ2d at 1397, "[r]igid preventative rules that deny factfinders recourse to common sense, however, are neither necessary under our case law nor consistent with it."

With respect to dependent claim 5, we also find no error in the Examiner's establishment of proper motivation for adding Pilney's teaching of providing a receiving/transmitting switch to the proposed combination of Kniffin and Pinzon and, accordingly, we sustain this rejection as well. Appellants have made no separate arguments for patentability of this claim

but, instead, have chosen to rely on arguments made with respect to parent claim 1, which arguments we found to be unpersuasive as discussed *supra*.

We also sustain the Examiner's 35 U.S.C. § 103(a) rejection of dependent claim 6 in which the Denison reference is added to the proposed combination of Kniffin and Pinzon. Appellants (Br. 9; Reply Br. 3) attack the teaching of Denison as providing a disclosure of a wired port only as an alternative to a wireless port in contrast to the language of claim 6 which requires both wired and wireless communication. Our review of the disclosure of Denison, however, reveals that Denison does in fact provide for both wired and wireless communication. For example, in addition to the portion of Denison (col. 3, ll. 36-39) cited by the Examiner as teaching a wired port, Denison also provides for wireless communication as illustrated in the Figure 6 embodiment described beginning at column 9, line 50.

Turning to a consideration of the Examiner's obviousness rejection of dependent claims 7 and 13-16 in which the periodic updating features of the MacLellan reference are added to the proposed combination of Kniffin and Pinzon, we also sustain this rejection. Appellants' arguments (Br. 10-11) in response reiterate those made with respect claim 1 alleging the failure of MacLellan to provide a teaching of wireless transmission of authorization information from a central control to a remote access control independent of any user access request. As we discussed previously, however, such a teaching is found in the disclosure of Kniffin.

Lastly, we also sustain the Examiner's 35 U.S.C. § 103(a) rejection of dependent claims 27 and 28 and independent claim 29 in which the Pilney reference is added to Kniffin to address the "normally powered down" feature of these claims. Our review of Kniffin, however, indicates that this

teaching of Pilney is cumulative to what Kniffin already discloses and, accordingly, Pilney is not needed for a proper rejection of these claims. As described at column 3, lines 37-40 of Kniffin, each lock receiver in a locking system can be targeted by time division multiplexing “wherein each receiver awakens in staggered brief intervals to listen for messages.”

As a final commentary, we note that, as mentioned earlier, the Examiner has indicated (Answer 2) that claims 18-26 have been allowed. We find nothing on the record before us, however, which provides any reasons as to why these claims were allowed. We make the observation that independent claim 18 includes the feature of a plurality of central wireless communicators that are coupled to the central access controller. This feature is also present in dependent claim 14, a claim to which the Examiner applied the MacLellan reference in combination with Kniffin and Pinzon to address this feature. If the Examiner remains of the position that claims 18-26 should be allowed, a “Reasons for Allowance” should be included to ensure completeness of the record.

CONCLUSION

In summary, we have sustained the Examiner’s 35 U.S.C. § 103(a) rejections of all of the claims on appeal. Therefore, the decision of the Examiner rejecting claims 1-7, 10-16, and 18-29 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv)(effective September 13, 2004).

Appeal 2007-0981
Application 10/803,434

AFFIRMED

eld

BAKER & DANIELS LLP
300 NORTH MERIDIAN STREET
SUITE 2700
INDIANAPOLIS IN 46204

Exhibit C

**Order By The United States Court of Appeals for the Federal Circuit Dismissing
Applicants' Appeal, Dated January 15, 2008**

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2008-1074
(Serial No. 10/803,434)

IN RE ROBERT WILMER RODENBECK,
ROGER KEITH RUSSEL, and MICHAEL LEE LONG

Appeal from the United States Patent and Trademark Office, Board of
Patent Appeals and Interferences.

ON MOTION

ORDER

Upon consideration of the appellants' motion to voluntarily dismiss this appeal,

IT IS ORDERED THAT:

- (1) The motion is granted.
- (2) All sides shall bear their own costs.

FOR THE COURT

JAN 15 2008

Date

Jan Horbaly PT
Jan Horbaly
Clerk

FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

cc: R. Trevor Carter, Esq.
Stephen Walsh, Esq.

JAN 15 2008

JAN HORBALY
CLERK

s8

ISSUED AS A MANDATE: JAN 15 2008

CERTIFIED COPY
I HEREBY CERTIFY THIS DOCUMENT
IS A TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE.

UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

By: AM Johnson Date: 1/15/08

Exhibit D

Notice of Abandonment Dated March 28, 2011



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,434	03/18/2004	Robert Wilmer Rodenbeck	3054-74724	5439
27268 7590 03/28/2011 BAKER & DANIELS LLP 300 NORTH MERIDIAN STREET SUITE 2700 INDIANAPOLIS, IN 46204			EXAMINER BROWN, VERNAL U	
			ART UNIT 2612	PAPER NUMBER
			NOTIFICATION DATE 03/28/2011	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

intear@bakerd.com
cynthia.payson@bakerdaniels.com

Notice of Abandonment

Application No.

10/803,434

Examiner

VERNAL U. BROWN

Applicant(s)

RODENBECK ET AL.

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☒ The decision by the Board of Patent Appeals and Interference rendered on 15 January 2008 and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

/Vernal U Brown/
Primary Examiner, Art Unit 2612

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.